IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 19639 of 2004

Between:

M/s Tulasi Cold Storage Private Limited,

Near Mirchi Yard, Madras Trunk Road,

Guntur, rep by its Managing Director

Mr.V.Velugonda Reddy. **..... PETITIONER**

AND

1.The Assistant Commercial Tax Officer,

Lalapet, Guntur
2.The Appellate Deputy Commissioner (CT)

Guntur Division, Guntur.
3.The Additional Commissioner (CT) Legal

A.P.Nampally, Hyderabad. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ, order or direction quashing the order of the 3rd respondent in CCT's Ref.No.LV(1)/7854/2001 dated 7.8.2004 as illegal, arbitrary and contrary to the facts and circumstances of the case and consequently restrain the 1st respondent from taking any coercive steps to recover the disputed penalty of Rs.2,63,555/- till disposal of the appeal filed by the Petitioner before the sales Tax Appellate Tribunal in T.A.No.675 of 2002 for the assessment year 1997-98 (CST).

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: Spl. Standing Counsel for Commercial Taxes

The Court made the following :

ORDER: (PER Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is that pending appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of 25% of the disputed penalty. Therefore, we set aside the order of the authority and the recovery shall remain stayed till disposal of the appeal. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

(BILAL NAZKI, J)

27th October, 2004

(S.ANANDA REDDY, J)

Note:

Wire at party's costs

B/o

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Copy to:

1.The Assistant Commercial Tax Officer,

Lalapet, Guntur
2.The Appellate Deputy Commissioner (CT),

Guntur Division, Guntur.
3.The Additional Commissioner (CT) Legal,

A.P.Nampally, Hyderabad.

4.Two CD copies.